

# Exhibit A

**LEHNER, Mary (MNL)**

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**From:** Tetreault, Mike G <MTetreault@cooley.com>  
**Sent:** Thursday, April 27, 2023 5:51 PM  
**To:** LEHNER, Mary (MNL); AL DAJANI, Ahmad  
**Cc:** Mejia, Beatriz  
**Subject:** United/JetBlue Subpoena Meet & Confer Summary

Counsel,

The following is a summary of the meet and confer between counsel for JetBlue and United on April 25, 2023.

**Board Presentations, Five-Year Network Planning Documents, and Revenue Management Reports**

JetBlue requested board presentations, 5-year network planning documents, and revenue management reports going back to January 1, 2018. You noted that United likely would not hand over all of these documents as requested, especially to a competitor. Instead, United would more likely identify responsive materials, then only produce the relevant parts of those materials.

Since our meet and confer, we have confirmed that United has already produced, including to competitors and without redaction, sensitive board and leadership documents to the DOJ in response to the CID relating to this case and in the NEA litigation. See UA-000013662 (2021 Goals Planning – Leadership Overview); UA-13268 (BOD Deck CRJ550\_v7); UA-000004410 (May 2021 Bounce Back BoD Deck). Additionally, the protective order in this case—which applies to United as a protected person—guarantees the security of all nonparty confidential information. It contemplates that third party airlines would be producing highly confidential competition-related material. See Stipulated Protective Order, ECF No. 66 ¶¶ 4-5, 36, 41. This order limits disclosure of highly confidential materials to only to attorneys and expert consultants and mandates that the information may only be used in the conduct of this action. Furthermore, courts routinely compel disclosure of sensitive commercial information and/or trade secrets, especially when there is an appropriate protective order in place to protect against public disclosure or competitive misuse. See *Direct Purchaser Class Plaintiffs v. Apotex Corp.*, No. 16-62492-MC, 2017 WL 4230124, at \*4 (S.D. Fla. May 15, 2017) (citing *Covey Oil Co. v. Cont'l Oil Co.*, 340 F.2d 993, 999 (10th Cir. 1965)); *Coca-Cola Bottling Co. of Shreveport v. Coca-Cola Co.*, 107 F.R.D. 288, 293 (D. Del. 1985); *ITT Electro-Optical Prod. Div. of ITT Corp. v. Elec. Tech. Corp.*, 161 F.R.D. 228, 232 (D. Mass. 1995). Courts compel production regardless of whether the subpoenaing party is a competitor.

Regarding the revenue management reports, United took the position that it would be surprising if any airline would produce these documents to a competitor. However, as pointed out in the meet and confer, United already has produced several regularly-generated reports, without redaction, relevant to this request. See UA-000014415 (Pricing Review Meeting 9.29.21).

JetBlue will confer internally to find ways to narrow down these items to decrease the burden on United.

**Custodial Searches**

JetBlue requested custodial searches on its subpoena items 1-4, 6-11, 13-16, 18, 23, and 25. JetBlue is prepared to propose search terms for these items, and requested that United suggest proper custodians from the C-suite, revenue management department, network planning department, and financial planning and analysis department. Counsel for United said that it had not yet begun custodial searches for any party, but it was meeting with the DOJ on 4/25 and would revert back to the client for input so it could do custodial searches for all parties at the same time.

**Nonpublic Regulatory Filings**

JetBlue requests filings requested by the government which are not publicly available to satisfy subpoena item 12. However, JetBlue will revert back to its team to narrow down the request to specific asks to reduce the burden on United.

**Deferrals**

JetBlue defers on items 19, 20, 21, and 24.

The parties have arranged for another meet and confer on Friday, April 28, 2023, at 3:30pm ET.

Best,

**Mike Tetreault**

Cooley LLP  
10265 Science Center Drive  
San Diego, CA 92121-1117  
+1 858 550 6281 office  
+1 858 550 6420 fax  
[mtetreault@cooley.com](mailto:mtetreault@cooley.com)

[www.cooley.com](http://www.cooley.com)

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